

John P. Margiotta (jmargiotta@frosszelnick.com)
Jennifer Insley-Pruitt (jinsley-pruitt@frosszelnick.com)
FROSS ZELNICK LEHRMAN & ZISSU, P.C.
4 Times Square, 17th Floor
New York, New York 10036
Tel: (212) 813-5900

Attorneys for Plaintiff and Counter-Defendant

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

AQUAZZURA ITALIA SRL,

Plaintiff,

v.

IVANKA TRUMP, IT COLLECTION LLC,
and MARC FISHER HOLDINGS LLC,

Defendants.

Civil Action No. 1:16-cv-04782-KBF

JURY DEMAND

IT COLLECTION LLC and MARC FISHER
HOLDINGS LLC,

Counterclaim-Plaintiffs,

v.

AQUAZZURA ITALIA SRL,

Counter-Defendant.

**PLAINTIFF-COUNTER DEFENDANT AQUAZZURA ITALIA SRL'S ANSWER TO
DEFENDANT-COUNTERCLAIM PLAINTIFF MARC FISHER HOLDINGS LLC'S
COUNTERCLAIMS TO THE SECOND AMENDED COMPLAINT**

Plaintiff-Counter Defendant Aquazzura Italia SRL (“Aquazzura”), by its undersigned counsel, for its Answer to the Counterclaims (the “Counterclaims”) of Defendant-Counterclaim Plaintiff Marc Fisher Holdings LLC (“Marc Fisher”), states as follows:

83. Denies having knowledge and information sufficient to form a belief as to the truth of the allegations of Paragraph 83.

84. Denies having knowledge and information sufficient to form a belief as to the truth of the allegations of Paragraph 84.

85. Admits the allegations of Paragraph 85.

86. Denies the allegations of Paragraph 86, and further states that the paragraph contains conclusions of law as to which no response is required, except admits that Marc Fisher purports to rely on 28 U.S.C. §§ 1331, 1338, 28 U.S.C. §§ 2201, 2202 and 15 U.S.C. § 1051 for the purpose of establishing subject matter jurisdiction.

ANSWER TO FIRST COUNTERCLAIM

87. Admits that Marc Fisher purports to bring a counterclaim for a declaratory judgment of no trade dress rights in the Wild Thing Shoe against Aquazzura in this action, but otherwise denies the allegations of Paragraph 87 and specifically denies the allegation that the design of the Wild Thing Shoe lacks secondary meaning, does not function as an indicator of source, and does not constitute protectable trade dress.

88. Denies having knowledge and information sufficient to form a belief as to the truth of the allegations of Paragraph 88.

89. Admits the allegations of Paragraph 89.

90. Admits the allegations of Paragraph 90.

91. Admits the allegations of Paragraph 91.

92. Denies the allegations of Paragraph 92.

93. Denies the allegations of Paragraph 93.

94. Denies the allegations of Paragraph 94, but admits that Aquazzura brought an action against Marc Fisher based in part on its common law trade dress rights in the design of Aquazzura's Wild Thing Shoe.

95. Denies the allegations of Paragraph 95.

96. Denies the allegations of Paragraph 96 and specifically denies the allegation that the design of the Wild Thing Shoe has not acquired distinctiveness, except admits that Aquazzura alleges that the actions of Marc Fisher and IT Collection LLC constitute trade dress infringement, unfair competition and deceptive trade practices and that Aquazzura has demanded that IT Collection LLC, Marc Fisher, and Ivanka Trump cease their infringing acts.

97. Denies the allegations of Paragraph 97, except admits that through the Counterclaims, Marc Fisher seeks to establish its right to sell the IVANKA TRUMP Hettie Shoe.

98. Admits that Marc Fisher seeks a declaratory judgment from the Court, but otherwise denies the allegations of Paragraph 98 and specifically denies the allegation that the design of the Wild Thing Shoe has not acquired distinctiveness, does not function as an indicator of the source of the shoe, and does not constitute protectable trade dress.

ANSWER TO SECOND COUNTERCLAIM

99. Repeats and realleges each response set forth in Paragraphs 83 to 98 above as though fully set forth herein.

100. Admits that Marc Fisher purports to bring a counterclaim for a declaratory judgment of patent invalidity against Aquazzura in this action, but otherwise denies the allegations of

Paragraph 100 and specifically denies the allegation that U.S. Design Patent No. D766,409 (“the ’409 Patent”) is invalid and/or unenforceable.

101. Admits the allegations of Paragraph 101.

102. Denies the allegations of Paragraph 102, but admits that Aquazzura brought an action against Marc Fisher based in part on Marc Fisher’s infringement of the ’409 Patent.

103. Denies the allegations of Paragraph 103 and avers that the ’409 Patent speaks for itself.

104. Denies having knowledge and information sufficient to form a belief as to the truth of the allegations of Paragraph 104.

105. Denies having knowledge and information sufficient to form a belief as to the truth of the allegations of Paragraph 105.

106. Denies the allegations of Paragraph 106.

107. Denies the allegations of Paragraph 107.

108. Denies the allegations of Paragraph 108.

109. Denies the allegations of Paragraph 109.

PRAYER FOR RELIEF

WHEREFORE, Aquazzura prays for judgment as follows:

- A. Dismissing Marc Fisher’s Counterclaims with prejudice;
- B. Awarding Aquazzura its costs, including reasonable attorney’s fees, incurred in defending the Counterclaims; and
- C. Granting Aquazzura such other and further relief as the Court may deem just and proper.

Dated: May 10, 2017

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: /s/ John P. Margiotta

John P. Margiotta

Jennifer Insley-Pruitt

4 Times Square, 17th Floor

New York, NY 10036

Tel: (212) 813-5900

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